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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/797,859	03/10/2004	Gregory P. Frankiewicz	2509	3717

7617 7590 07/13/2005

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EXAMINER	
PENG, CHARLIE YU	
ART UNIT	**PAPER NUMBER**
2883	

DATE MAILED: 07/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

AK

Office Action Summary	Application No.	Applicant(s)	
	10/797,859	FRANKIEWICZ ET AL.	
	Examiner	Art Unit	
	Charlie Peng	2883	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-35* is/are pending in the application.

4a) Of the above claim(s) *36-51* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-35* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *10 March 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____

Brian Healy
Primary Examiner

DETAILED ACTION

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-35, drawn to an optical element, classified in class 385, subclass 50.

II. Claims 36-51, drawn to coating an optical element, classified in class 65, subclass 430.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the product can be made by a different process such as vapor desposition, electrical coating, or direct spraying.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reasons given above and the search required for Invention I is not required for Invention II, restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

During a telephone conversation with C. Bruzga on 5 July 2005 a provisional election was made without traverse to prosecute the invention of Group I, claims 1-35. Affirmation of this election must be made by applicant in replying to this Office action. Claims 36-51 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. PGPub 2002/0168145 to Yin. Yin teaches an optical fiber **14** (commonly made of

polymer or glass) having a core **30** being coupled to an optical transmission medium **16** by a buffer layer **32** providing adhesion and an antireflective coating **34**. (See at least Fig. 1D and its descriptions) Although Yin does not discuss the percentage of light transmitted by the antireflective coating, it is well known in the art antireflective coating is applied to optical elements to increase light transmitted and decrease light reflected. For example, U.S. Patent 4,535,026 to Yoldas et al. teaches an applied antireflective coating that allows more than 99% of optical transmission. It would have been obvious to one of ordinary skill in the art at the time the invention was made to increase the amount of optical transmission, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or working ranges involves only routine skill in the art. In re Aller, 105 USPQ 233. The motivation would be to allow optimum or maximum amount of light to be coupled into the optical fiber.

Claims 4-15 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yin. Yin teaches all the structural limitations of the invention including an optical fiber and a substrate with AR coating adhered thereon except for a particular material for the adhesive. It would have been obvious to one having ordinary skill in the art at the time the invention was made to select any of the materials capable of adhesion function, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of necessary choice. In re Leshin, 125 USPQ 416. The motivation would be to adhere the substrate and the optical fiber more securely, with better durability, with cheaper materials, etc.

Claims 16-30 and 32-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yin. Yin teaches all the structural limitations of the invention including an optical fiber and a substrate with AR coating adhered thereon except for a particular material for the substrate. It would have been obvious to one having ordinary skill in the art at the time the invention was made to select any of the materials capable of light transmission function, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of necessary choice. In re Leshin, 125 USPQ 416. The motivation would be to use a high transmission materials that is cheaper, has better durability, etc.

Claims 16-30, 32, and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yin. Yin teaches all the structural limitations of the invention including an optical fiber and a substrate with AR coating adhered thereon except for a particular material for the substrate. It would have been obvious to one having ordinary skill in the art at the time the invention was made to select any of the materials capable of light transmission function, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of necessary choice. In re Leshin, 125 USPQ 416. The motivation would be to use a high transmission materials that is readily available, cheaper, has better durability, etc.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Please see PTO-892 for additional reference cited.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charlie Peng whose telephone number is (571) 272-2177. The examiner can normally be reached on 9 am - 6 pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frank Font can be reached on (571) 272-2415. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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